

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH CHAMBERS,	§
	§ No. 629, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0305016220
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 16, 2009

Decided: November 12, 2009

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 12th day of November 2009, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Joseph Chambers, filed an appeal from the Superior Court's December 10, 2008 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we affirm.

(2) In March 2005, Chambers was found guilty by a Superior Court jury of Capital Murder in the First Degree and two weapon offenses. He

was sentenced to life imprisonment without the possibility of probation or parole. This Court affirmed Chambers' convictions on direct appeal.¹

(3) In this appeal from the Superior Court's denial of his motion for postconviction relief, Chambers claims that, at trial, the Superior Court erred by failing to a) declare a mistrial when a detective and a witness for the State conversed during a break in the witness' testimony; b) properly instruct the jury regarding accomplice liability; c) exclude the out-of-court statement of a witness; and d) suppress his statement to his probation officer. Chambers also claims that, to the extent his claims are procedurally barred, his attorney's ineffective assistance resulted in a miscarriage of justice sufficiently egregious to warrant consideration of his claims on their merits. To the extent that Chambers has not argued other grounds to support his appeal that were previously raised, those grounds are deemed to be waived and will not be addressed by this Court.²

(4) In postconviction proceedings, the Superior Court must first determine whether the procedural requirements of Rule 61 have been met before addressing the merits of the movant's claims.³ Here, the record

¹ *Chambers v. State*, 930 A.2d 904 (Del. 2007).

² *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993). In his postconviction motion filed in the Superior Court, Chambers also argued that the Superior Court erred by permitting a videotaped statement to be played that did not meet the requirements of Del. Code Ann. tit. 11, §3507.

³ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

reflects that Chambers' first claim regarding the Superior Court's refusal to declare a mistrial was unsuccessfully raised both at trial and on direct appeal. As such, it is procedurally barred as formerly adjudicated unless Chambers can demonstrate that reconsideration of the claim is warranted in the interest of justice.⁴ In the absence of any such evidence, we conclude that the Superior Court properly denied Chambers' first claim.

(5) Chambers' second claim is that the Superior Court failed to properly instruct the jury regarding accomplice liability. To the extent that this claim is the same as Chambers' claim, asserted on direct appeal, that the jury should have been instructed to view the testimony of his accomplices with special caution, it is procedurally barred as formerly adjudicated.⁵ Moreover, because Chambers presents no evidence that the claim should be reconsidered in the interest of justice,⁶ we conclude that the Superior Court properly denied it. To the extent that the claim has been raised for the first time in these postconviction proceedings, it is procedurally defaulted under Rule 61(i)(3). In the absence of any evidence of cause for the default and

⁴ Super. Ct. Crim. R. 61(i)(4).

⁵ Id.

⁶ Id.

resulting prejudice,⁷ the Superior Court's denial of the claim must be affirmed.

(6) Chambers' third claim is that his constitutional right to confront his accuser was violated when the Superior Court permitted the State to present the out-of-court statement of a witness. The record reflects that, while this claim was raised at trial, albeit unsuccessfully, it was subsequently abandoned on direct appeal. As such, the claim is procedurally defaulted unless Chambers is able to demonstrate cause for the default and resulting prejudice.⁸ In the absence of any such evidence, we conclude that this claim, too, was properly denied by the Superior Court.

(7) Chambers' fourth claim is that the Superior Court improperly failed to suppress his statement to his probation officer. Again, while this claim was raised at trial, it was later abandoned on direct appeal and, therefore, is procedurally defaulted.⁹ And again, in the absence of any evidence supporting cause for the default and resulting prejudice,¹⁰ we conclude that the Superior Court properly denied the claim.

(8) Chambers, finally, attempts to overcome the procedural bars to his claims by arguing that his attorneys' ineffective assistance resulted in a

⁷ Super. Ct. Crim. R. 61(i)(3)(A) and (B).

⁸ Id.; *Oney v. State*, 482 A.2d 756, 758 (Del. 1984).

⁹ Super. Ct. Crim. R. 61(i)(3).

¹⁰ Super. Ct. Crim. R. 61(i)(3)(A) and (B).

miscarriage of justice.¹¹ The record reflects that no claim of ineffective assistance of counsel was raised in the Superior Court.¹² As such, we decline to address any such claims for the first time in this appeal.¹³

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹¹ Super. Ct. Crim. R. 61(i)(5).

¹² In fact, both of Chambers' trial attorneys declined to file affidavits because Chambers had raised no such claims.

¹³ Supr. Ct. R. 8.